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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/808,577  | 03/25/2004  | Kenji Kaneko         | P25048              | 5557             |
| 7055  | 7590        | 11/16/2004           | EXAMINER            |                  |
| GREENBLUM & BERNSTEIN, P.L.C.<br>1950 ROLAND CLARKE PLACE<br>RESTON, VA 20191 |             |                      | AL SOMIRI, ISAM A   |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3662                |                  |

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                             |  |
|------------------------------|-----------------------------|--|
| <b>Office Action Summary</b> | Application No.             | Applicant(s)   |
|                              | 10/808,577                  | KANEKO ET AL.  |
|                              | Examiner<br>Isam A Alsomiri | Art Unit<br>3662  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 March 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-8 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 09/938,663.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakamura et al. US 5,877,892.**

**Re claim 1,** Nakamura discloses in figures 1-16, a surveying instrument comprising: a sighting telescope optical system through which a sighting object can be sighted (see Abstract, col. 7 lines 55-61); a distance measuring system which measures a distance to the sighting object; and a phase detection autofocus system which detects a focus state of an image of the sighting object on a reference focal plane (see figure 14, col 6 lines 50-67); and an AF driver 30 which moves a focusing lens 12 of the sighting telescope optical system to bring the sighting object into focus in accordance with an output of the phase detection autofocus system (see col. 7 lines 5-12).

**Re claim 2,** Nakamura teaches the AF driver moves the focusing lens 12 to bring the sighting object into focus in accordance with an output of the phase detection autofocus system without the use of a reflective device at a point of the sighting object (see col. 6 lines 48-50, figure 1).

**Re claim 3,** Nakamura teaches the distance measuring system and the AF driver operate consecutively upon a single-push operation of the start button.

**Re claim 4**, Nakamura teaches a controller which provides a consecutive autofocus mode in which the sighting object is brought into focus automatically consecutively via the AF driver, and a consecutive distance measurement mode in which the distance to the sighting object is consecutively measured via the distance measuring system', wherein the consecutive autofocus mode starts at the same time the consecutive distance measurement mode is started.

**Re claim 5**, Nakamura teaches a controller which drives the AF driver to move the focusing lens to a predetermined position thereof so that an object at a predetermined distance is in focus when the sighting object is unable to be brought into focus in the case of a measurement mode in which a target is set at an arbitrary point.

**Re claim 6**, Nakamura teaches the surveying instrument is a total station (see col. 14 lines 26-30).

**Re claim 7**, Nakamura teaches the distance measuring system comprises a distance meter having a light-emitting element and a light-receiving element (see col. 14 lines 45-48).

**Re claim 8**, Nakamura teaches the phase detection autofocus system comprises a pair of line sensors (see col. 6 lines 61-62).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isam A Alsomiri whose telephone number is 703-305-5702. The examiner can normally be reached on Monday-Thursday and every other Friday (8:30-5:00).

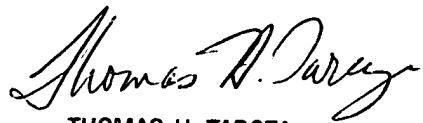
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H Tarcza can be reached on 703-306-4171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Isam Alsomiri



November 8, 2004



THOMAS H. TARCZA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600